

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ALVIN S. CARTER

PLAINTIFF

V.

CIVIL ACTION NO. 3:22-CV-604-KHJ-MTP

THE STATE OF, et al.

DEFENDANTS

ORDER

Before the Court is the [8] Report and Recommendation (“Report”) of United States Magistrate Judge Michael T. Parker. He recommends dismissal of this case without prejudice. Written objections to the Report were due by February 3, 2023. The Report notified the parties that failure to file written objections to the findings and recommendations by that date would bar further appeal in accordance with 28 U.S.C. § 636.

When no party has objected to a magistrate judge’s report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1). In such cases, the Court applies the clearly erroneous, abuse of discretion, and contrary to law standards of review. *See United States v. Brigham*, 569 F.3d 220, 228 (5th Cir. 2009) (citation omitted).

Carter filed his Complaint against “The State of,” “The County of,” and “The City of,” on October 14, 2022. [1]. He filed his Motion for Leave to Proceed *in forma pauperis* on the same day. Mot. [2]. The Court found it needed additional

information to determine the factual basis for Carter's claims and to rule on his motion. Order [3]. The Court ordered Carter to provide a short and plain statement showing he is entitled to relief, provide the basis for the Court's jurisdiction, and sufficiently identify the defendants. *Id.* It also ordered Carter to complete a long form *in forma pauperis* application, identifying his monthly expenses and the source of his food and shelter. *Id.* Finally, the Court warned Carter that failure to comply with its directions could result in dismissal of his case.

Carter filed the long form application, but he did not provide the factual allegations supporting his claims or the specific financial information as ordered. Resp. [4]; Mot. [5]. On November 16, 2022, the Court again directed Carter to clarify his claims, provide the factual allegations supporting them, and identify the proper defendants. Order [6]. The Court likewise ordered him to provide the additional information about his expenses, shelter, food, and other needs. *Id.* The Court again warned Carter that failure to follow its directives by December 7, 2022, may result in dismissal of his case.

Carter filed another long form application but did not provide the additional financial information, clarify his claims, provide the factual allegations supporting them, or identify the proper defendants. Mot. [7]. To date, Carter has provided none of that information.

District courts have discretion to dismiss an action sua sponte for a plaintiff's failure to prosecute or comply with a court order pursuant to Federal Rule of Civil Procedure 41(b) and its inherent authority to control its cases. *Link v. Wabash R.R.*

Co., 370 U.S. 626, 629-30 (1962). Carter did not comply with the Court's directives, even after being given three chances to do so. Accordingly, the Report recommends denial of his pending Motions for Leave to Proceed *in forma pauperis*, [2], [5], [7], and dismissal of his case without prejudice.

Carter did not object to the Report, and his time to do so has passed. The Court finds that the Magistrate Judge's Report is not clearly erroneous or contrary to law. The Court therefore adopts the [8] Report and Recommendation of United States Magistrate Judge Michael T. Parker as the findings of the Court.

Accordingly, the Court DISMISSES Carter's case without prejudice pursuant to Federal Rule of Civil Procedure 41(b) and denies his pending [2], [5], [7] Motions for Leave to Proceed *in forma pauperis*. The Court will issue a separate Final Judgment consistent with this Order.

SO ORDERED, this the 7th day of February, 2023.

s/ Kristi H. Johnson
UNITED STATES DISTRICT JUDGE